IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 9027 of 2004

Between:

B.Kanthaiah, S/o Veeraiah,
R/o Saidapur Village & Mandal, Karimnagar District.

... PETITIONER

AND

1 The Divisional Forest Officer, Karimnagar (West), Karimnagar District.
2 The Conservator of Forests, Warangal, Warangal District.
3 The Principal Chief Conservator of Forests, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of mandamus directing the respondents to permit the petitioner to transfer his Saw Mill M/s Mallikarjuna Saw Mill bearing Licence No.54/2003, vide Ref.No.646/99/56, dated 26-1-2003, issued by the 1st respondent from Saidapur Village and Mandal, Karimnagar District in the name of one K.Srinivasa Chary, S/O Omkara Chary, R/o Husnabad Village and Mandal, Karimnagar District by setting aside the rejecting order issued by the 1st respondent in Rc.No.6416/s6/2003, dated 27-4-2004.

Counsel for the Petitioner: MR.BRAHMADANDI RAMESH

Counsel for the Respondents: GP FOR FORESTS

The Court made the following order:

ORDER:

Petitioner questions the action of the Divisional Forest Officer, Karimnagar (West), Karimnagar District, in rejecting the request of the petitioner for transfer of ownership and licence and shifting permission of Saw Mill from the existing place Saidapur (V & M) to Husnabad
(V & M).

Petitioner is the owner of M/s. Mallikarjuna Saw Mill bearing licence No.54 of 2003 vide Ref.No.646/99/56 obtained on 26.01.2003 from the first respondent. The said saw mill was decided to be disposed of in favour of Mr. K. Srinivasa Chary, S/o. Omkara Chary, R/o. Husnabad, for the sale consideration of Rs.1,35,000/-. Accordingly, petitioner submitted a representation dated 05.11.2003 requesting the first respondent to permit him to transfer his licence and shift the sawmill to Husnabad. The said request was rejected by the impugned order.

Counter has been filed stating that the transfer of sawmill licence and shifting of the venue amounts to fresh grant of licence in favour of different owner and therefore, as per the guidelines issued in W.P.No.2002 of 1995 by the Apex Court vide orders dated 06.11.2002 there is a restriction on establishment of new saw mills. Accordingly, the request of the petitioner was rejected by the impugned order.

The learned counsel appearing for the petitioner submits that the issue involved in this writ petition is squarely covered by the judgment of this Court in W.P.Nos.10265 and 12700 of 2004 dated 16.08.2004.

This Court in W.P.Nos.10265 and 12700 of 2004 while considering the similar contentions of the GP For Forests that shifting of the sawmill amounts to grant of fresh licence held that Sub Rule 4 of Rule 5 of the Andhra Pradesh Sawmill (Regulation) Rules 1969, a sawmill can be permitted to be shifted from one place to another within the same forest division, such change should be done with the prior approval of the licensing authority. But, however, as per the Division Bench judgment of this Court in the case of **DIVISIONAL FOREST OFFICER, ADILABAD DIST. v. SREE VENKATESWARA SAW MILLS** the shifting of a sawmill should not be within 5 Kms radius of the reserve forest boundary.

Following the said judgment the writ petition is allowed only to the extent of setting aside the impugned order and directing the respondents to effect the change of ownership in respect of the existing sawmill with a liberty to the petitioner and the purchaser of the sawmill to take steps for applying a fresh representation for shifting of the sawmill to the required place, subject to obtaining prior approval of the licensing authority as contemplated under the said rules and if the renewal application is pending as per the rules the same may be considered and pass appropriate orders in accordance with law. No costs.

The writ petition is accordingly partly allowed. No costs.

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V. ESWARAIAH, J

April 26, 2005

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this

Tuesday the Twenty Sixth Day of April Two Thousand and Five.

To

1 The Divisional Forest Officer, Karimnagar (West), Karimnagar District.
2 The Conservator of Forests, Warangal, Warangal District.
3 The Principal Chief Conservator of Forests, Hyderabad.

4 Two CCs to GP For Forests, High Court Buildings, Hyderabad (OUT)

Two CD Copies.